

PLUME NUMBER AND STATION ADDRESS	OCWD'S ACCRUAL DATES AND SUPPORTING ASSERTIONS	UNDISPUTED FACTS SUPPORTING DEFENDANTS' FURTHER SUPPLEMENTAL MEMORANDUM
		<p>100 ppb on December 13, 1996, and in five of the six subsequent sampling events prior to May 6, 2000. OCWD-MTBE-001-183206-7.) MTBE was detected in well B-21 at a level of 60 ppb on March 27, 1996, and in fourteen of the fifteen subsequent sampling events prior to May 6, 2000. OCWD-MTBE-001-183215-16.)</p>
<p>Thrifty #368 (aka Arco #9734) 6311 Westminster Blvd. Westminster</p>	<p>45. Claims initially alleged to accrue on January 18, 2005. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to September 23, 2001. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This date is based on an alleged MTBE detection in production well HB-13. (<i>Id.</i>, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)</p>	<p>45. MTBE was not detected in well HB-13 on the District's purported date of accrual. (Costley 2009 Decl. Ex. 1B; <i>see also</i> ¶ 41 <i>supra</i>.) HB-13 was not tested for MTBE until January 2002. (OCWD-MTBE-001-188803; OCWD-MTBE-001-188808). Furthermore, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least two off-site monitoring wells at levels greater than the California Secondary MCL of 5 ppb: MW-9 and MW-12 as follows:</p> <p>MTBE was detected in MW-9 at levels exceeding 5 ppb beginning on August 13, 1998, and in six subsequent testing events, as high as 77.6 ppb, prior to May 6, 2000. (OCWD-MTBE-001-188614 -15.) MTBE was also detected in MW-12 at levels exceeding 5 ppb from the initial testing of that well on March 24, 1999, and in all four subsequent testing events prior to May 6, 2000, at levels as high as 35 ppb. (OCWD-MTBE-001-188618.)</p>

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Unocal #5226 (aka Circle K #5226) 6322 Westminster Ave. Westminster	46. Claims alleged to accrue on November 3, 2003. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on a detection in offsite monitoring well MW-16. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCWD-MTBE-001-184781 and OCHCA-MTBE-002757.)	<p>46. The MTBE detection in well MW-16 on which OCWD's date is based was at 1.5 ppb. (Costley 2009 Decl. Ex. 1D.) This detection is less than one-third of the California Secondary MCL and therefore well below the level at which the District's claims accrued, based on their own criteria. In fact, MW-16 has never had a detection at or over the MCL. (OCHCA-MTBE-002758 - 59.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least May 11, 1998, at 480,000 ppb. (OCHCA-MTBE-002718; Costley 2009 Decl. Ex. 1D.) The District concedes these detections. (See OCWD-MTBE-001-192569.) These early on-site and high-level MTBE detections prompted the District's representative to conclude that, "[C]ontamination ... left the site probably sometime between '98 and 2004." (Bolin Dep. 491:14-21.)</p>
Westminster Shell 5981 Westminster Ave. Westminster	47. Claims alleged to accrue on January 18, 2005. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an alleged MTBE detection in production well HB-13. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	<p>47. MTBE was not detected in well HB-13 on the District's purported date of accrual. (Costley 2009 Decl. Ex. 1B; <i>see also</i> ¶ 41 <i>supra</i>.) Furthermore, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least four off-site monitoring wells at levels greater than the California Secondary MCL of 5 ppb: MW-5, MW-8, MW-9 and MW-11 as follows:</p> <p>MTBE was detected in MW-5 at a level of 44 ppb on February 11, 2000.</p>

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		<p>(OCWD-MTBE-001-184143.) MTBE was detected in well MW-8 at a level of 60 ppb on April 22, 1997, and in ten out of twelve subsequent testing events through May 6, 2000. (OCWD-MTBE-001-184147.) MTBE was detected in well MW-9 at a level of 90 ppb on August 8, 1997, and again at a level of 11 ppb on November 2, 1998. (OCWD-MTBE-001-184148.) MTBE was also detected in MW-11 at 87 ppb on November 12, 1999 and in both subsequent testing events prior to May 6, 2000 at a minimum of 29 ppb. (OCWD-MTBE-001-184151.)</p>
Huntington Beach Arco 6002 Bolsa Ave. Huntington Beach	48. Claims alleged to accrue on August 9, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an alleged MTBE detection in production well HB-13. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	<p>48. MTBE was not detected in well HB-13 on the District's purported date of accrual. (Costley 2009 Decl. Ex. 1D; <i>see also</i> ¶ 41 <i>supra</i>.) HB-13 was not tested for MTBE until January 2002. (OCWD-MTBE-001-188803; OCWD-MTBE-001-188808).</p> <p>Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least March 20, 2000, at 76,000 ppb. (Costley 2009 Decl. Ex. 1D.)</p>
USA Gasoline #141 14600 Edwards St. Westminster	49. Claims initially alleged to accrue on September 23, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to January 18, 2005. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This date is based on an alleged detection in production well HB-13. (<i>Id.</i> , citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May	<p>49. MTBE was not detected in well HB-13 on the District's purported date of accrual. (Costley 2009 Decl. Ex. 1D; <i>see also</i> ¶ 41 <i>supra</i>.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least June 6, 1996, at 510 ppb, and in subsequent testing events. (Costley 2009 Decl. Ex. 1D.)</p>

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	2, 2008, at Ex. 1A attached thereto.)	
<u>PLUME NO. 10</u> <u>WM-22</u>	50. The District bases its accrual dates for both stations in Plume 10 (Four Star Ventures, Shell #8990) on MTBE detections in off-site monitoring wells at these stations. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	50. Plume 10 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 67-71.
Shell #8990 8990Westminster Blvd. Westminster	51. Claims initially alleged to accrue on August 15, 2000. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to March 7, 2003. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This date is based on a detection in offsite monitoring well B-22. (<i>Id.</i> , citing SARWQCB-MTBE-016827.)	51. The MTBE detection in well B-22 on which OCWD's date is based was at 14 ppb. (Costley 2009 Decl. Ex. 1A.) Prior to May 6, 2000, MTBE was detected at this station in at least three offsite monitoring wells at levels greater than the California Secondary MCL: B-14, B-15, and B-16, as follows: MTBE was detected in B-14 at a level of 17 ppb on July 13, 1998. (OCWD-MTBE-001-261012.) MTBE was detected in well B-15 at a level of 10 ppb on July 13, 1998. (OCWD-MTBE-001-261014.) MTBE was detected in well B-16 at a level of 11 ppb on July 13, 1998, and again at 13 ppb in July 28, 1999. (OCWD-MTBE-001-261016.)
Four Star Ventures 9356 Westminster Blvd. Westminster	52. Claims initially alleged to accrue on March 7, 2003. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to October 31, 2007. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This date is based on an MTBE detection in offsite monitoring well S-1B. (<i>Id.</i> , citing OCHCA-MTBE-079844.)	52. The MTBE detection in well S-1B on which OCWD's date is based was at 19 ppb. (Costley 2009 Decl. Ex. 1A.) Prior to May 6, 2000, MTBE was detected at this station in at least two offsite monitoring wells at levels greater than the California Secondary MCL: MW-13 and MW-14 as follows: MTBE was detected in MW-13 beginning on September 1, 1999 at 1,500 ppb, and was detected in that

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		<p>monitoring well during the other monitoring event prior to May 6, 2000, on March 2, 2000 at 1,100 ppb. (OCHCA-MTBE-079830.) MTBE was detected in MW-14 beginning on September 1, 1999 at 920 ppb, and was detected in that monitoring again on March 2, 2000 at 590 ppb. (OCHCA-MTBE-079831.)</p>
<u>DEFS.' PLUME NO. 1</u> WM-22	<p>53. The District bases its accrual dates for two stations in Defendants' Plume 1 (Texaco #3311, Unocal #5792) on MTBE detections in off-site monitoring wells at these stations. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) The District contends that its claims at two stations in Defendants' Plume 1 (Shell #4001 / Shell #135218, Unocal #4727) are not ripe.</p>	<p>53. The District's accrual dates for Defendants' Plume 1 fail to recognize the off-site monitoring wells for Shell #4001 / Shell #135218, and Unocal #4727 that had detections of MTBE above 5 ppb prior to May 6, 2000. (Costley 2009 Decl. Ex. 1E.)</p>
<p>Shell #4001/ Shell #135218 4001 Ball St. Cypress</p>	<p>54. On February 6, 2009, OCWD claimed inadequate information to ascertain an accrual date. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, OCWD determined that its claims are not ripe at this station. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)</p>	<p>54. The District contends that its claims at this station are not ripe (Costley 2009 Decl. Ex. 1E.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in an offsite monitoring well, B-13, at up to 1,090 ppb, greater than the California Secondary MCL of 5 ppb. (<i>Id.</i>)</p>
<p>Texaco #3311 3311 Katella Ave. Los Alamitos</p>	<p>55. Claims initially alleged to accrue on October 6, 2000. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to January 27, 1999. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This date is based on an MTBE detection in offsite monitoring well MW-6. (<i>Id.</i>, citing OCHCA-MTBE-088887.)</p>	<p>55. The District asserts accrual at this station based on a detection in monitoring well MW-6 at a level of 23.5 ppb on January 27, 1999. (Costley 2009 Decl. Ex. 1A.) By so stating, the District concedes its claims at this site accrued prior to May 6, 2000, and are barred by the statute of limitations.</p>

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Unocal #5792 4002 Ball St. Cypress	56. Claims alleged to accrue on June 6, 2003. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in offsite monitoring well MW-7D. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCWD-MTBE-001-268691.)	56. The MTBE detection in well MW-7D on which OCWD's date is based was at 4 ppb. (Costley 2009 Decl. Ex. 1D.) This detection is less than the California Secondary MCL and therefore below the level at which the District's claims accrued, based on their own criteria. Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least May 11, 1998 at 19,000 ppb. (See OCWD-MTBE-001-268681.)
Unocal #4727 3501 Cerritos Los Alamitos	57. Claims initially alleged to accrue on March 2, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, OCWD determined that its claims are not ripe at this station. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	57. The District contends that its claims at this station are not ripe (Costley 2009 Decl. Ex. 1E.) Prior to May 6, 2000, MTBE was detected at this station in an at least two offsite monitoring wells at levels greater than the California Secondary MCL: RMC-6 and RMC-7, as follows: MTBE was first detected in wells RMC-6 and RMC-7 on May 29, 1996, and was subsequently detected intermittently at RMC-6 and continuously at RMC-7 through May 6, 2000. (OCWD-MTBE-001-268651-268653.) The peak detection at RMC-6 was 46 ppb (OCWD-MTBE-001-268652) and the peak detection at RMC-7 was 80,000 ppb. (OCWD-MTBE-001-268653.)
<u>DEFS.' PLUME NO. 2</u>	58. The District contends its claims at the station in Defendants' Plume 2 (Arco #6160) are not ripe. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	58. The District's accrual contentions for Defendants' Plume 2 fail to recognize the off-site monitoring wells for the site that had detections of MTBE above 5 ppb prior to May 6, 2000. (Costley 2009 Decl. Ex. 1E.)
Arco #6160	59. On February 6, 2009, OCWD	59. The District contends that its claims at

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13361 Harbor Blvd. Garden Grove	claimed inadequate information to ascertain an accrual date. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, OCWD contends that its claims are not ripe at this station. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	<p>this station are not ripe (Costley 2009 Decl. Ex. 1E.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least two off-site monitoring wells at levels greater than the California Secondary MCL of 5 ppb: MW-6 and MW-7. (See OCWD-MTBE-001-267278 - 267279.)</p> <p>MTBE was first detected in MW-6 at 200 ppb and in MW-7 at 26 ppb on April 4, 2000, the first testing event at either well. (<i>Id.</i>)</p>
<u>DEFS.' PLUME NO. 3</u>	60. The District contends its claims at the station in Defendants' Plume 3 (Mobil #18-FYE) are not ripe. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	60. The District's accrual contention for Defendants' Plume 3 fails to recognize the off-site monitoring wells for the site that had detections of MTBE above 5 ppb prior to May 6, 2000. (Costley 2009 Decl. Ex. 1E.)
Mobil #18-FYE 8521 Knott Ave. Buena Park	61. On February 6, 2009, OCWD claimed inadequate information to ascertain an accrual date. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, OCWD contends that its claims are not ripe at this station. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	<p>61. The District contends that its claims at this station are not ripe (Costley 2009 Decl. Ex. 1E.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in an at least three offsite monitoring wells at levels greater than the California Secondary MCL: MW-5, MW-7, and MW-8, as follows:</p> <p>MTBE was first detected in MW-5 at levels above the Secondary MCL on August 20, 1996, and in eleven out of the fourteen subsequent sampling events prior to May 6, 2000. (EXMO_18FYE_001543 - 001545.) MTBE was detected in MW-7 at levels above 5 ppb in September and November 1999, and February 2000. (EXMO_18FYE_001549.) MTBE was detected at levels exceeding 5 ppb in MW-8 on several occasions prior to</p>

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		<p>May 6, 2000, beginning on August 27, 1997, then in three subsequent testing events between September 1999 and February 2000.</p> <p>(EXMO_18FYE_001551.) The District acknowledges these multiple on-site and off-site MTBE detections, stating "[t]here's been MTBE detected in every single well drilled for this site, including the on-site wells, the site margin wells, and the offsite wells, with the exception of MW-6 in the northeast corner." (Bolin Dep. 3804:1-5.)</p>
<u>DEFS.' PLUME NO. 4</u>	<p>62. The District bases its accrual date for the station in Defendants' Plume 4 (Arco #6036) on MTBE detections in an off-site monitoring well at this station. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)</p>	<p>62. The District's accrual date for Defendants' Plume 4 fails to recognize the off-site monitoring wells for the site that had detections of MTBE above 5 ppb prior to May 6, 2000. (Costley 2009 Decl. Ex. 1A.)</p>
<p>Arco #6036 13142 Golden West St. Westminster</p>	<p>63. Claims alleged to accrue on August 16, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in offsite monitoring well VA-2D. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCWD-MTBE-001-267086.)</p>	<p>63. MTBE was not detected in well VA-2D on August 16, 2001. (Costley 2009 Decl. Ex. 1A.) However MTBE was detected in that well on May 31, 2005 at 37 ppb. (<i>Id.</i>)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least two offsite monitoring wells at levels greater than the California Secondary MCL: MW-8 and MW-10 as follows:</p> <p>MTBE was first detected in MW-8 at levels exceeding 5 ppb beginning on September 29, 1999 and in two subsequent testing events prior to May 6, 2000. (OCWD-MTBE-001-267072.) MTBE was detected in MW-10 at levels ranging from 16-86 ppb in three testing events between June 12 and December 10, 1996, again at 70 ppb on March 5, 1998, 63 ppb on December 10, 1999, and 48 ppb on</p>

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		March 24, 2000. (OCWD-MTBE-001-267076.)
<u>DEFS.' PLUME NO. 5</u>	64. The District bases its accrual date for the station in Defendants' Plume 5 (Mobil #18-668) on an alleged MTBE detection in production well IRWD-16 on November 17, 2008. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	64. The District's accrual date for Defendants' Plume 5 fails to recognize the off-site monitoring wells for the site that had detections of MTBE above 5 ppb prior to May 6, 2000. (Costley 2009 Decl. Ex. 1B.)
Mobil #18-668 16230 Harbor Blvd. Fountain Valley	65. Claims alleged to accrue on November 17, 2008. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in production well IRWD-16. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Bates #: OCWD-MTBE-001-269003.)	<p>65. The MTBE detection in well IRWD-16 on which OCWD's date is based was at 0.03 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least four off-site monitoring wells at levels greater than the California Secondary MCL: MW-5, MW-6, MW-7, and MW-14, as follows:</p> <p>MTBE was detected in MW-5 on February 18, 1997 at 13 ppb and on August 19, 1998 at 14.8 ppb. (EXMO_18668_028790.) MTBE was detected in MW-6 on May 14, 1996 at 38 ppb, and in 14 subsequent sampling events prior to May 6, 2000, with a peak of 130,000 ppb. (EXMO_18668_028791.) MTBE was detected in MW-7 on February 13, 1996 at 46,000 ppb, and in 15 subsequent sampling events prior to May 6, 2000, with a peak of 73,000 ppb. (EXMO_18668_028792.) MTBE was detected in MW-14 on May 14, 1996 at 4,900 ppb, and in 15 sampling</p>

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		events prior to May 6, 2000, with a peak of 130,000 ppb. (EXMO_18668_028799.)
<u>DEFS.' PLUME NO. 9</u>	66. The District bases its accrual date for the station in Defendants' Plume 9 (Chevron #9-5568) on an MTBE detection in an off-site monitoring well at this station. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	66. The District's accrual date for Defendants' Plume 9 admits the site had detections of MTBE above 5 ppb prior to May 6, 2000. (Costley 2009 Decl. Ex. 1A.)
Chevron #9-5568 12541 Seal Beach Blvd. Seal Beach	67. On February 6, 2009, OCWD claimed inadequate information to ascertain an accrual date. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to October 13, 1997. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This date is based on an MTBE detection in monitoring well MW-10. (<i>Id.</i> , citing OCWD-MTBE-001-266143.)	67. The District asserts accrual at this station based on a detection in monitoring well MW-10 at a level of 54 ppb on October 13, 1997. (Costley 2009 Decl. Ex. 1A.) By so stating, the District concedes its claims at this site accrued prior to May 6, 2000, and are barred by the statute of limitations
<u>DEFS.' PLUME NO. 10</u>	68. The District contends its claims at the station in Defendants' Plume 10 (Arco #3094) are not ripe. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	68. The District's accrual contention for Defendants' Plume 10 fails to recognize the off-site monitoring wells for the site that had detections of MTBE above 5 ppb prior to May 6, 2000. (Costley 2009 Decl. Ex. 1E.)
Arco #3094 530 N. Brookhurst St. Anaheim	69. On February 6, 2009, OCWD contended its claims are not ripe at this station. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, OCWD confirmed that contention. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	69. The District contends that its claims at this station are not ripe (Costley 2009 Decl. Ex. 1E.) Prior to May 6, 2000, MTBE was detected at this station in an offsite monitoring well, MW-6 at 24 ppb on February 23, 1999, and at levels above 5 ppb in seven subsequent testing events prior to May 6, 2000. (<i>Id.</i> ; OCWD-MTBE-001-268123.)

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Respectfully submitted,

ARNOLD & PORTER LLP

By: s/ Matthew T. Heartney
Matthew T. Heartney (MH 3737)
777 South Figueroa Street, 44th Floor
Los Angeles, CA 90017 (213) 243-4000
Matthew_Heartney@aporter.com

Attorneys for Defendants Atlantic Richfield
Company, BP Products North America Inc.,
and BP West Coast Products LLC, and on
behalf of each defendant listed on
Attachment A to Defendants' Further
Supplemental Memorandum in Support of
Their Motion for Summary Judgment Based
on Statute of Limitations